

To: Benjamin A. Costa(trademark@rcjlawgroup.com)
Subject: U.S. Trademark Application Serial No. 97433281 - VAST
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Attachments

[4286851](#)

United States Patent and Trademark Office (USPTO)
Office Action (Official Letter) About Applicant's Trademark Application

U.S. Application Serial No. 97433281

Mark: VAST

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Applicant: Vast, LLC

Reference/Docket No. N/A

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NONFINAL OFFICE ACTION

Response deadline. File a response to this nonfinal Office action within three months of the “Issue date” below to avoid [abandonment](#) of the application. Review the Office action and respond using one of the links to the appropriate electronic forms in the “How to respond” section below.

Request an extension. For a fee, applicant may [request one three-month extension](#) of the response deadline prior to filing a response. The request must be filed within three months of the “Issue date” below. If the extension request is granted, the USPTO must receive applicant’s response to this letter within six months of the “Issue date” to avoid abandonment of the application.

Issue date: March 23, 2023

SUMMARY OF ISSUES:

- REFUSAL to Register Under Trademark Act Section 2(d) -Likelihood of Confusion for Class 043 Services

- REFUSAL to Register Under Trademark Act Sections 1, 2, 3&45 -Activity is Not a Service for Classes 040 & 042
- REQUIREMENT for Clarification and Proper Classification of Identification Language
- REQUIREMENT for Submission of Additional Fees or Restriction of Identification Language

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issues below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

REFUSAL to Register Under Trademark Act 2(d) -Likelihood of Confusion Exists for Class 043 Services

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark in **U.S. Registration No. 4286851**. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §1207.01 *et seq.* See the attached registration.

The mark for the cited registration is the standard character wording VAST for: "Restaurant services".

The mark sought in this application is the standard character wording VAST for [in relevant part]:

"Restaurant and bar services located in space, at low and high altitude, and in other off-Earth locations;" in International Class 043.

Trademark Act Section 2(d) bars registration of an applied-for mark that is so similar to a registered mark that it is likely consumers would be confused, mistaken, or deceived as to the commercial source of the services of the parties. *See* 15 U.S.C. §1052(d). Likelihood of confusion is determined on a case-by-case basis by applying the factors set forth in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973) (called the “*du Pont* factors”). *In re i.am.symbolic, llc*, 866 F.3d 1315, 1322, 123 USPQ2d 1744, 1747 (Fed. Cir. 2017). Any evidence of record related to those factors need be considered; however, “not all of the *DuPont* factors are relevant or of similar weight in every case.” *In re Guild Mortg. Co.*, 912 F.3d 1376, 1379, 129 USPQ2d 1160, 1162 (Fed. Cir. 2019) (quoting *In re Dixie Rests., Inc.*, 105 F.3d 1405, 1406, 41 USPQ2d 1531, 1533 (Fed. Cir. 1997)).

Although not all *du Pont* factors may be relevant, there are generally two key considerations in any likelihood of confusion analysis: (1) the similarities between the compared marks and (2) the relatedness of the compared services. *See In re i.am.symbolic, llc*, 866 F.3d at 1322, 123 USPQ2d at 1747 (quoting *Herbko Int’l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1164-65, 64 USPQ2d 1375, 1380 (Fed. Cir. 2002)); *Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 1103, 192 USPQ 24, 29 (C.C.P.A. 1976) (“The fundamental inquiry mandated by [Section] 2(d) goes to the cumulative effect of differences in the essential characteristics of the goods [or services] and differences in the marks.”); TMEP §1207.01.

COMPARISON OF THE MARKS

In a likelihood of confusion determination, the marks in their entirety are compared for similarities in appearance, sound, connotation, and commercial impression. *In re i.am.symbolic, llc*, 866 F.3d 1315, 1323, 123 USPQ2d 1744, 1748 (Fed. Cir. 2017); *Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1321, 110 USPQ2d 1157, 1160 (Fed. Cir. 2014) (quoting *Palm Bay Imps., Inc. v. Veuve*

Clicquot Ponsardin Maison Fondée En 1772, 396 F.3d 1369, 1371, 73 USPQ2d 1689, 1691 (Fed. Cir. 2005)); *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973); TMEP §1207.01(b)-(v).

In the present case, applicant's mark is the standard wording VAST and registrant's mark is the standard character wording VAST. These marks are identical in appearance, sound, and meaning, "and have the potential to be used . . . in exactly the same manner." *In re i.am.symbolic, llc*, 116 USPQ2d 1406, 1411 (TTAB 2015), *aff'd*, 866 F.3d 1315, 123 USPQ2d 1744 (Fed. Cir. 2017). Additionally, because they are identical, these marks are likely to engender the same connotation and overall commercial impression when considered in connection with applicant's and registrant's respective goods and/or services. *Id.*

Therefore, the marks are confusingly similar.

COMPARISON OF THE SERVICES

Determining likelihood of confusion is based on the description of the services stated in the application and registration at issue, not on extrinsic evidence of actual use. *See In re Detroit Athletic Co.*, 903 F.3d 1297, 1307, 128 USPQ2d 1047, 1052 (Fed. Cir. 2018) (citing *In re i.am.symbolic, llc*, 866 F.3d 1315, 1325, 123 USPQ2d 1744, 1749 (Fed. Cir. 2017)).

In this case, the registration uses broad wording to describe its "Restaurant services", which presumably encompasses all services of the type described, including applicant's more narrowly listed "Restaurant and bar services located in space, at low and high altitude, and in other off-Earth locations;". *See, e.g., Made in Nature, LLC v. Pharmavite LLC*, 2022 USPQ2d 557, at *44 (TTAB 2022); *In re Solid State Design Inc.*, 125 USPQ2d 1409, 1412-15 (TTAB 2018); *Sw. Mgmt., Inc. v. Ocinomled, Ltd.*, 115 USPQ2d 1007, 1025 (TTAB 2015). ***Thus, applicant's and registrant's services are legally identical.*** *See, e.g., In re i.am.symbolic, llc*, 127 USPQ2d 1627, 1629 (TTAB 2018) (citing *Tuxedo Monopoly, Inc. v. Gen. Mills Fun Grp., Inc.*, 648 F.2d 1335, 1336, 209 USPQ 986, 988 (C.C.P.A. 1981); *Inter IKEA Sys. B.V. v. Akea, LLC*, 110 USPQ2d 1734, 1745 (TTAB 2014); *Baseball Am. Inc. v. Powerplay Sports Ltd.*, 71 USPQ2d 1844, 1847 n.9 (TTAB 2004)).

Additionally, the services of the parties have no restrictions as to nature, type, channels of trade, or classes of purchasers and are "presumed to travel in the same channels of trade to the same class of purchasers." *In re Viterro Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (quoting *Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1268, 62 USPQ2d 1001, 1005 (Fed. Cir. 2002)); *Made in Nature, LLC v. Pharmavite LLC*, 2022 USPQ2d 557, at *49. Thus, applicant's and registrant's services are related.

A likelihood of confusion results when the confusingly similar marks are used in the market for the legally identical services. Accordingly, registration of the mark sought in this application is hereby refused under Section 2(d) of the Trademark Act in this case. Applicant should note the following additional grounds for refusal.

REFUSAL to Register Under Trademark Act Sections 1, 2, 3&45 -Activity is Not a Service

Registration is refused because the activities recited in the identification of services are not registrable services as contemplated by the Trademark Act. Trademark Act Sections 1, 2, 3, and 45, 15 U.S.C.

§§1051-1053, 1127; *see* TMEP §§1301.01 *et seq.*

The activities set forth as services in an application are reviewed using the following criteria to determine whether the services are registrable:

- (1) A service is a real activity, not an idea, concept, process, or system.
- (2) A service is performed primarily for the benefit of someone other than the applicant.
- (3) A service is an activity that is sufficiently separate and qualitatively different from an applicant's principal activity, i.e., it cannot be an activity that is merely incidental or necessary to an applicant's larger business.

TMEP §1301.01(a); *see In re Dr Pepper Co.*, 836 F.2d 508, 509-510, 5 USPQ2d 1207, 1208-1209 (Fed. Cir. 1987); *In re Canadian Pac. Ltd.*, 754 F.2d 992, 994-95, 224 USPQ 971, 973 (Fed. Cir. 1985).

In this case, the description set forth in the identification of services is as follows:

"Custom development, manufacturing, and building of launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life; Research regarding the development, manufacturing, and building of launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life" in International Class 040.

"Scientific research; Engineering; Scientific and technical consulting, research and development, engineering, design, and prototyping services in the field of launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life; Scientific and technical consulting, research and development, engineering, design, and prototyping services in the fields of aerospace engineering, propulsion systems, guidance, navigation, and control systems, avionics, robotic devices, structures for space applications, environmental control and life support systems, spacesuits, extravehicular mobility units (EMU), exploration extravehicular mobility units (xEMU), materials science, life sciences, human and animal habitation in space, and space science; Computer software design and development services in the field of launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life; Computer software design and development services in the field of aerospace engineering, propulsion systems, guidance, navigation, and control systems, avionics, robotic devices, structures for space applications, environmental control and life support systems, spacesuits, extravehicular mobility units (EMU), exploration extravehicular mobility units (xEMU), materials science, life sciences, human and animal habitation in space, and space science science; Integration of environmental control and life support systems for launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life; Systems development, namely, propulsion systems, guidance, navigation, and control systems, avionics, structures for launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life; Technical, scientific and consulting services for conducting technical, research, and manufacturing activities in space, at low and high altitude, and in other off-Earth locations; Development and establishment of

testing specifications and procedures in the field of space exploration systems; Providing facilities in space to support research and exploration system testing, namely, providing specialized scientific research and technological exploration system testing facilities; Hosting file and data servers for third parties; Hosting file and data servers for third parties in space, at low and high altitude, and in other off-Earth locations" in International Class 042.

These activities are not registrable services because this activity is being undertaken in support of applicant's larger business of space travel, space transit, space station facilities provision and management and commercial payload services. Thus, the custom spacecraft, space vehicle and space station development, research and manufacturing services are not being undertaken for the benefit of anyone other than the applicant and only in support of its larger services of space travel, facilities and transport services. The Class 042 research, software design and "Scientific and technical consulting, research and development, engineering, design, and prototyping services in the field of launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life; Scientific and technical consulting, research and development, engineering, design, and prototyping services in the fields of aerospace engineering, propulsion systems, guidance, navigation, and control systems, avionics, robotic devices, structures for space applications, environmental control and life support systems, spacesuits, extravehicular mobility units (EMU), exploration extravehicular mobility units (xEMU), materials science, life sciences, human and animal habitation in space, and space science;" scientific and technical consulting services and all other services listed in this class are also activity undertaken in support of applicant's larger space travel, space facilities and transport services. Neither the Class 040 services nor the Class 042 services are sufficiently separate and qualitatively different from the applicant's principle business activity for them to qualify as a "service" under Trademark Law.

Accordingly, registration of the mark sought in this application is hereby refused under Trademark Act Sections 1, 2, 3, and 45 in this case. Although applicant's mark has been refused registration, applicant may respond to the refusals by submitting evidence and arguments in support of registration. If applicant responds to the refusals, applicant must also respond to the requirements set forth below.

REQUIREMENT for Clarification and Proper Classification of Identification Language

The following bolded identification wording is indefinite and must bear clarified as to the form of intended use or purpose for the goods:

"Space stations; Extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life; Docking stations for docking launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life; Docking stations being part of launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life; Parts for launch vehicles, spacecraft, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life; Environmental control and life support systems for launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life" in International Class 009.

See 37 C.F.R. §2.32(a)(6); TMEP §1402.01. Applicant must amend this wording to specify the common commercial or generic name of the goods. See TMEP §1402.01. If the goods have no common

commercial or generic name, applicant must describe the product, its main purpose, and its intended uses. *See id.*

The following wording in bold in the identification of services language is indefinite and must be clarified because it is indefinite as to the form of and intended use or purpose for the listed services. *See* 37 C.F.R. §2.32(a)(6); TMEP §1402.01:

"Retail store services; Retail store services located in space, at low and high altitude, and in other off-Earth locations; Retail store services located in launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life; Providing fuel management services in the field of launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life; Fuel depots and fueling stations; Fuel depots and fueling stations located in space, at low and high altitude, and in other off-Earth locations; Providing business consultation services in the field of space access by humans and animals, improving space technology, and habitation by humans and animals in space, at low and high altitude, and in other off-Earth locations" in International Class 035.

If applicant's retail store services involve retail stores or outlets (online or brick-and-mortar), or distributorships, applicant should amend the identification to indicate (1) the nature of the retail activity provided (e.g., retail stores, retail distributorships, online retail outlets), and (2) the field or type of goods offered through those retail services, e.g., "retail online ordering services featuring {specify field or type of goods, e.g., auto parts, clothing, jewelry}," "retail distributorships in the field of {specify field or type of goods, e.g., auto parts, clothing, jewelry}," and "retail outlets featuring {specify field or type of goods, e.g., auto parts, clothing, jewelry}." *See* TMEP §§1301.01(a)(ii), 1402.11.

Additionally, the following identification of services wording is indefinite and must be clarified because as to the form of, intended use, purpose or field of use for the services. *See* 37 C.F.R. §2.32(a)(6); TMEP §1402.01:

"Travel services, namely, arranging low and high altitude flights and space flights; Launching commercial payloads of others in rockets and launch vehicles; Utility services, namely, provision of universal utilities in launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life; Leasing of fixed and movable storage containers; Leasing of fixed and movable storage containers on launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life" in International Class 039.

"Custom ...building of extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life; Research regarding the development, manufacturing, and building of launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life" in International Class 040.

"Scientific ...consulting, research and development, design, and prototyping services in the field of launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life; ***Scientific ...consulting, research and development, ...design, and prototyping services*** in the fields of aerospace engineering, propulsion systems, guidance, navigation, and control systems, avionics, robotic devices,

structures for space applications, environmental control and life support systems, spacesuits, extravehicular mobility units (EMU), exploration extravehicular mobility units (xEMU), materials science, life sciences, human and animal habitation in space, and space science; ***Integration of environmental control and life support systems*** for launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life; ***Systems development***, namely, propulsion systems, guidance, navigation, and control systems, avionics, structures for launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life; ***Technical, scientific and consulting services for conducting technical, research, and manufacturing activities in space, at low and high altitude, and in other off-Earth locations***; ***Providing facilities in space to support research and exploration system testing, namely, providing specialized scientific research and technological exploration system testing facilities***; ***Hosting file and data servers for third parties***; ***Hosting file and data servers for third parties in space, at low and high altitude, and in other off-Earth locations***" in International Class 042.

"Hospitality services, namely, consulting services in the field of hospitality, hotel, bar, restaurant services, extended-stay hotels, temporary accommodation services, and residential hotel services, located in space, at low and high altitude, and in other off-Earth locations; Hotel services located in space, at low and high altitude, and in other off-Earth locations;" in International Class 043.

Applicant must amend this wording to specify the common commercial or generic name of the services. *See* TMEP §1402.01. If the services have no common commercial or generic name, applicant must describe or explain the nature of the services using clear and succinct language. *See id.*

Applicant's identification of goods and/or services language may be clarified or limited, but may not be expanded beyond those originally itemized in the application or as acceptably amended. *See* 37 C.F.R. §2.71(a); TMEP §1402.06. Applicant may clarify or limit the identification by inserting qualifying language or deleting items to result in a more specific identification; however, applicant may not substitute different goods and/or services or add goods and/or services not found or encompassed by those in the original application or as acceptably amended. *See* TMEP §1402.06(a)-(b). The scope of the goods and/or services sets the outer limit for any changes to the identification and is generally determined by the ordinary meaning of the wording in the identification. TMEP §§1402.06(b), 1402.07(a)-(b). Any acceptable changes to the goods and/or services will further limit scope, and once goods and/or services are deleted, they are not permitted to be reinserted. TMEP §1402.07(e).

Applicant may clarify by either (i) Deleting the problematic identification language specified above or (ii) Substituting some or all of the following wording, if accurate:

Please note that parentheses are not acceptable in the identification. *See* TMEP Section 1402.12. Where the wording "{specify ...}" appears in this Office Action, the examining attorney has merely suggested ways to cure the indefiniteness of the identification. The applicant must list the goods and/or services without parentheses.

INTERNATIONAL CLASS 006

Extraterrestrial and off-Earth habitats, ***namely, modular metal structures with flexible covers for agricultural, commercial or industrial storage for*** animals, plants, and other biological

life; Extraterrestrial and off-Earth animal *enclosures in the nature of prefabricated or modular metal stables*; Extraterrestrial and off-Earth habitats for humans, *namely, metal* {specify, e.g., *metal modular homes, fabric covered buildings made substantially of metal; modular metallic buildings*}; *Floating docks of metal for use in* docking launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life; Parts for extraterrestrial and off-Earth *modular metal* habitat *structures* for human, animal, plant, and other biological life, *namely, metal* {specify, e.g., *building boards, brackets, armor-plating, metal countertops for further installation, building panels*}.

INTERNATIONAL CLASS 009

Satellites; Space stations *in the nature of satellites capable of attaching to ground stations and space platforms used for telecommunications*; *Earth observation systems comprising* space stations *that are equipped with optical and signal equipment and instruments*; Parts for satellites *and* space stations, *namely,* {specify, e.g., *cables for optical signal transmissions, blank optical data carriers, dispersion sifter optical fibers, digital signal processors, electrical signal attenuators, emergency signal transmitters*}; *Electrical integrated* environmental control systems *comprising downloadable software for keeping combined temperature, humidity, pressure and composition within acceptable limits* for use in launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life; *Portable* life support systems *for space travel comprised of oxygen supply cell stacks, water deionizer beds to produce oxygen, oxygen circulating pumps, face mask separators and controls and parts therefore for use in* launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats.

INTERNATIONAL CLASS 012

Space vehicles; Parts for launch vehicles, spacecraft, space vehicles and *space vehicle* fleets, *namely,* {Specify, e.g., *bearings, braking systems, gunner shields as a structural part of a vehicle, transmissions, windshields, pneumatic deicers, brake discs, break linings, nacelles comprised of an inlet cowl, fan cowls, pylon/strut, exhaust nozzle and exhaust cone*}.

INTERNATIONAL CLASS 019

Extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life, *namely, modular non-metal* {specify, e.g., *homes, pigsties, poultry houses, silos, stables, greenhouses*}; Extraterrestrial and off-Earth *artificial* habitats for animal, plant, and other biological life, *namely, habitat structures in the nature of non-metal floating islands for agricultural, horticultural, recreational and water treatment purposes*; *Non-metal floating docks for use in* docking launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life; Parts for extraterrestrial and off-Earth *modular non-metal* habitat *structures* for human, animal, plant, and other biological life, *namely, non-metal building materials in the nature of* {specify, e.g., *fascia, shutters, shingles, cladding, flashing, countertops for further installation*}.

INTERNATIONAL CLASS 035

Retail store services featuring food, oxygen, water, general consumer merchandise, electronics and electrical products, and parts for launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life; Providing fuel ***logistics*** management in the field of launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life; Fuel depots and fueling station ***services, namely, retail gasoline supply services for launch vehicles, spacecraft, rockets, space vehicles and space vehicle fleets***; Fuel depots and fueling station ***services, namely, retail gasoline supply services for launch vehicles, spacecraft, rockets, space vehicles and space vehicle fleets*** located in space, at low and high altitude, and in other off-Earth locations; Providing business consultation services in the field of space access ***industry for humans and animals, space technology business improvement planning, and space colonization and support industries producing habitation by humans and animals in space, at low and high altitude, and in other off-Earth locations***; ***Business management*** consulting services in the field of ***the business management of temporary accommodation services and provision of food and drink services, hotel, bar, restaurant services, extended-stay hotels, temporary accommodation services, and residential hotel services, located in space, at low and high altitude, and in other off-Earth locations***;

INTERNATIONAL CLASS 037

Maintenance services for launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life; ***Custom building construction services, namely, custom building of extraterrestrial and off-Earth homes for humans and habitats for animal, plant, and other biological life,***

INTERNATIONAL CLASS 039

Travel services, namely, ***coordinating the travel arrangements for individuals and groups for low and high altitude flights and space flights***; Launching commercial payloads of others in ***rocket launch vehicles***; Launching of spacecraft, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life for others; Transportation of goods for others; Utility services, namely, provision of universal utilities in the nature of electricity distribution and supply, water distribution and supply, oxygen distribution and supply, and life-support utilities distribution and supply; Utility services, namely, provision of universal utilities ***in the nature of electricity distribution and supply, water distribution and supply, oxygen distribution and supply, and life-support utilities distribution and supply*** in launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life; Leasing of hangar space for and on launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life; Leasing of maintenance space being garage space for launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life; Leasing of fixed and movable storage containers ***to commercial and residential users***; Leasing of fixed and

movable storage containers *to commercial and residential users* on launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life.

INTERNATIONAL CLASS 040

Custom development, manufacturing, and building of launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites and space stations;

INTERNATIONAL CLASS 042

Product research and development for others in the field of launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life; Scientific research; Engineering; Scientific ***consulting and research*** and technical consulting, ***product*** research and development, engineering, ***new product*** design ***services***, and ***custom design of prototypes*** services ***all*** in the fields of launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life; Scientific ***consulting and research*** and technical consulting, ***product*** research and development, engineering, ***new product*** design, and ***custom design of prototypes*** services ***all*** in the fields of aerospace engineering, propulsion systems, guidance, navigation, and control systems, avionics, robotic devices, structures for space applications, environmental control and life support systems, spacesuits, extravehicular mobility units (EMU), exploration extravehicular mobility units (xEMU), materials science, life sciences, human and animal habitation in space, and space science; Computer software design and development services in the field of launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life; Computer software design and development services in the field of aerospace engineering, propulsion systems, guidance, navigation, and control systems, avionics, robotic devices, structures for space applications, environmental control and life support systems, spacesuits, extravehicular mobility units (EMU), exploration extravehicular mobility units (xEMU), materials science, life sciences, human and animal habitation in space, and space science; Integration of ***computer systems and networks for control of*** environmental control and life support systems for launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life; ***Product*** development, namely, ***development of*** propulsion systems, guidance ***systems***, navigation ***systems***, and {***specify, function, e.g., climate, carbon dioxide fire suppression, engine electronic***} control systems, avionics ***electronics systems***, structures ***all for use for*** launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life; Technical ***consulting and scientific consulting and research in the fields of*** technical, research, and manufacturing activities in space, at low and high altitude, and in other off-Earth locations; Development and establishment of testing specifications and procedures in the field of space exploration systems; ***Providing facilities for scientific research*** in space ***in the nature of*** specialized scientific research and technological exploration system testing facilities; ***Infrastructure as a service (IAAS) services, namely, hosting servers in the nature of*** file servers and data servers ***for use by others*** in space, at low and high altitude, and in other off-Earth locations.

INTERNATIONAL CLASS 043

Restaurant and bar services located in space, at low and high altitude, and in other off-Earth locations; Hotel services, *namely, hotel* {specify, e.g., **concierge, accommodation, catering, room booking**} services located in space, at low and high altitude, and in other off-Earth locations; Providing temporary accommodations located in space, at low and high altitude, and in other off-Earth locations.

For assistance with identifying and classifying goods and services in trademark applications, please see the USPTO's online searchable [U.S. Acceptable Identification of Goods and Services Manual](#). See TMEP §1402.04.

REQUIREMENT for Submission of Additional Filing Fees or Restriction of Identification Language

The application identifies goods and/or services that are classified in at least ten (10) classes; however, applicant submitted fees sufficient for only nine (9) classes. In a multiple-class application, a fee for each class is required. 37 C.F.R. §2.86(a)(2), (b)(2); TMEP §§810.01, 1403.01. For more information about adding classes to an application, see the [Multiple-class Application webpage](#).

Therefore, applicant must either (1) Restrict the application to the number of classes covered by the fees already paid, or (2) Submit the fees for each additional class.

The application identifies goods and/or services in more than one international class; therefore, applicant must satisfy all the requirements below for each international class based on Trademark Act Section 1(b):

- (1) **List the goods and/or services by their international class number** in consecutive numerical order, starting with the lowest numbered class.
- (2) **Submit a filing fee for each international class** not covered by the fees already paid (view the [USPTO's current fee schedule](#)). The application identifies goods and/or services that are classified in at least ten (10) classes; however, applicant submitted fees sufficient for only nine (9) classes. Applicant must either submit the filing fees for the classes not covered by the submitted fees or restrict the application to the number of classes covered by the fees already paid.

See 37 C.F.R. §2.86(a); TMEP §§1403.01, 1403.02(c).

For an overview of the requirements for a Section 1(b) multiple-class application and how to satisfy the requirements online using the Trademark Electronic Application System (TEAS) form, see the [Multiple-class Application webpage](#).

For assistance with identifying and classifying goods and services in trademark applications, please see the USPTO's online searchable [U.S. Acceptable Identification of Goods and Services Manual](#). See TMEP §1402.04.

ADVISORY -Potential Partial Abandonment Without Timely Response

The above-referenced application will become partially abandoned if applicant fails to respond to this Office action by the response deadline. *See* 15 U.S.C. §1062(b); 37 C.F.R. §2.65(a)-(a)(1); TMEP §§711, 718.02(a).

This Office action includes refusals and/or requirements that apply to only a portion of the goods, services, and/or classes in the application; therefore, only that portion of the application will be abandoned should applicant fails to file a timely response. *See* 15 U.S.C. §1062(b); 37 C.F.R. §2.65(a)(1); TMEP §718.02(a). The portion of the identification that is the subject of the refusals and/or requirements raised herein will then be deleted from the application. At that time the application will proceed with the following identification of goods and/or services language in the specified classes:

"Satellites" in International Class 009; "Space vehicles" in International Class 012; "Retail store services featuring food, oxygen, water, general consumer merchandise, electronics and electrical products, and parts for launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life;" in International Class 035; "Maintenance services for launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life" in International Class 037; "Launching of spacecraft, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life for others; Transportation of goods for others; Utility services, namely, provision of universal utilities in the nature of electricity distribution and supply, water distribution and supply, oxygen distribution and supply, and life-support utilities distribution and supply; Leasing of hangar space for and on launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life; Leasing of maintenance space being garage space for launch vehicles, spacecraft, rockets, space vehicles and fleets, satellites, space stations, and extraterrestrial and off-Earth habitats for human, animal, plant, and other biological life;" in International Class 039; "Providing temporary accommodations located in space, at low and high altitude, and in other off-Earth locations" in International Class 043.

Applicant may respond by filing a petition to revive the abandoned goods, services, and/or classes if applicant's failure to respond was unintentional. TMEP §§718.02(a), 1714.01(d). Applicant must file the petition within two months of the "Issue date" of this letter using the [Petition to the Director](#) form accompanied by the required fee. *See* 37 C.F.R. §§2.23(a), 2.66(a); TMEP §§718.02(a), 1714.01(a), (d).

How to respond: File a [response form to this nonfinal Office action](#) or file a [request form for an extension of time to file a response](#).

/Amy Kean/
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Amy.Kean@USPTO.GOV

RESPONSE GUIDANCE

- **Missing the deadline for responding to this letter will cause the application to [abandon](#).** A response or extension request must be received by the USPTO before 11:59 p.m. **Eastern Time** of the last day of the response deadline. Trademark Electronic Application System (TEAS) [system availability](#) could affect an applicant's ability to timely respond. For help resolving technical issues with TEAS, email TEAS@uspto.gov.
- **[Responses signed by an unauthorized party](#)** are not accepted and can **cause the application to [abandon](#)**. If applicant does not have an attorney, the response must be signed by the individual applicant, all joint applicants, or someone with [legal authority to bind a juristic applicant](#). If applicant has an attorney, the response must be signed by the attorney.
- If needed, **find [contact information for the supervisor](#)** of the office or unit listed in the signature block.

(4) STANDARD CHARACTER MARK

VAST

Mark Punctuated

VAST

Translation

Goods/Services

- IC 043. US 100 101.G & S: Restaurant services. FIRST USE: 20121029. FIRST USE IN COMMERCE: 20121029

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Design Code

Serial Number

85543659

Filing Date

20120215

Current Filing Basis

1A

Original Filing Basis

1B

Publication for Opposition Date

20120703

Registration Number

4286851

Date Registered

20130205

Owner

(REGISTRANT) Devon Energy Corporation CORPORATION DELAWARE 333 West Sheridan Avenue
Oklahoma City OKLAHOMA 73102

Priority Date

Disclaimer Statement

Description of Mark

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Live Dead Indicator

LIVE

Attorney of Record

David M. Sullivan

United States Patent and Trademark Office (USPTO)

USPTO OFFICIAL NOTICE

Office Action (Official Letter) has issued
on March 23, 2023 for
U.S. Trademark Application Serial No. 97433281

A USPTO examining attorney has reviewed your trademark application and issued an Office action. You must respond to this Office action to avoid your application abandoning. Follow the steps below.

- (1) **[Read the Office action](#)**. This email is NOT the Office action.
- (2) **Respond to the Office action by the deadline** using the Trademark Electronic Application System (TEAS). Your response, or extension request, must be received by the USPTO on or before 11:59 p.m. **Eastern Time** of the last day of the response deadline. Otherwise, your application will be [abandoned](#). See the Office action itself regarding how to respond.
- (3) **Direct general questions** about using USPTO electronic forms, the USPTO [website](#), the application process, the status of your application, and whether there are outstanding deadlines to the [Trademark Assistance Center \(TAC\)](#).

After reading the Office action, address any question(s) regarding the specific content to the USPTO examining attorney identified in the Office action.

GENERAL GUIDANCE

- **[Check the status](#) of your application periodically** in the [Trademark Status & Document Retrieval \(TSDR\)](#) database to avoid missing critical deadlines.
- **[Update your correspondence email address](#)** to ensure you receive important USPTO notices about your application.
- **[Beware of trademark-related scams](#)**. Protect yourself from people and companies that may try to take financial advantage of you. Private companies may call you and pretend to be the USPTO or may send you communications that resemble official USPTO documents to trick you. We will never request your credit card number or social security number over the phone. Verify the correspondence originated from us by using your serial number in our database, [TSDR](#), to confirm that it appears under the “Documents” tab, or contact the [Trademark Assistance Center](#).
- **[Hiring a U.S.-licensed attorney](#)**. If you do not have an attorney and are not required to

have one under the trademark rules, we encourage you to hire a U.S.-licensed attorney specializing in trademark law to help guide you through the registration process. The USPTO examining attorney is not your attorney and cannot give you legal advice, but rather works for and represents the USPTO in trademark matters.